

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOHN PAUL THOMAS,

Plaintiff,

vs.

No. CIV 09-833 WJ/LFG

PENITENTIARY OF NEW MEXICO'S
PUBLICATION REVIEW PANEL,

Defendant.

**ORDER DENYING AS MOOT PLAINTIFF'S MOTION
FOR LEAVE TO SUPPLEMENT COMPLAINT**

THIS MATTER comes before the Court on Plaintiff John Paul Thomas ("Thomas")'s Motion for Leave to Supplement Complaint [Doc. 7], filed October 16, 2009. He also filed a document entitled "Complaint Supplement" [Doc. 8] on that date.

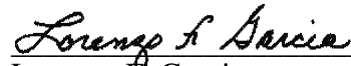
Thomas filed his initial Complaint on August 28, 2009, and then filed a Memorandum of Law in Support of the Complaint [Doc. 6] on September 11, 2009. No Defendant has yet been served in this action, and an Answer has not been filed.

A party may amend a pleading once as a matter of course before being served with a responsive pleading. FED. R. CIV. P. Rule 15(a). Pleadings filed by *pro se* litigants are given a liberal construction. Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991). The Court does not consider Thomas's "Memorandum of Law" to be an amendment to the Complaint; thus, his "Complaint Supplement" stands as the first amendment to his Complaint, and he need not seek Court approval to file this amendment as he has not yet been served with a responsive pleading. The Court will therefore deny his Motion as moot but will accept the "Complaint Supplement" as part of the Complaint.

Thomas is advised that he may not file further amendments to his Complaint without first seeking the Court's permission, unless the opposing party has entered an appearance and given written consent to the amendment. FED. R. CIV. P. Rule 15(b).

Order

IT IS THEREFORE ORDERED that Plaintiff's Motion for Leave to Supplement Complaint [Doc. 7] is denied as moot.

A handwritten signature in cursive script, reading "Lorenzo F. Garcia", is positioned above a horizontal line.

Lorenzo F. Garcia
Chief United States Magistrate Judge